

United States District Court  
District of Wyoming

**LOCAL RULE 26.1**

**DISCOVERY** (excerpts)

**(a) Applicability.** This Rule is applicable to all cases filed in this District except where modified by Court order.

**(b) Stay of Discovery.** Formal discovery, including oral depositions, service of interrogatories, requests for production of documents and things, and requests for admissions, shall not commence until the parties have complied with Fed.R.Civ.P. 26(a)(1).

**(c) Initial Disclosure (Self-Executing Routine Discovery Exchange).** It is the policy of this District that discovery shall be open, full and complete within the parameters of the Federal Rules of Civil Procedure.

(1) Initial Disclosures. [Excerpted from Fed.R.Civ.P. 26(a)(1)(A)-(O)]. Except in categories of proceedings specified in Fed.R.Civ.P. 26(a)(1)(E), or to the extent otherwise stipulated or directed by order, a party must, without awaiting a discovery request, provide to other parties:

(A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment identifying the subjects of the information;

(B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment. In cases where it is impractical due to the volume or nature of the documents to provide such copies, parties shall provide a complete description by category and location in lieu thereof;

(C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**d) Rule 26(f) Meeting of Counsel; Initial Disclosure Exchange.** The Court will set an initial pretrial conference no sooner than thirty-five (35) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court.

(1) Counsel must meet and confer in person or by telephone in accordance with Fed.R.Civ.P.26(f) no later than twenty (20) days after the last pleading pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court. (See Appendix D)

(2) Counsel on behalf of the parties must exchange the initial disclosures (self-executing routine discovery) pursuant to Local Rule 26.1(c)(1) above, no later than thirty (30) days after the last pleading filed pursuant to Fed.R.Civ.P. 7 or a dispositive motion is filed with the Court.

(3) Prior to a Fed.R.Civ.P. 26(f) conference, counsel should carefully investigate their client's information management system so that they are knowledgeable as to its operation, including how information is stored and how it can be retrieved. Likewise, counsel shall reasonably review the client's computer files to ascertain the contents thereof, including archival and legacy data (outdated formats or media), and disclose in initial discovery (self-executing routine discovery) the computer based evidence which may be used to support claims or defenses.

(A) Duty to Notify. A party seeking discovery of computer-based information shall notify the opposing party immediately, but no later than the Fed.R.Civ.P. 26(f) conference of that fact and identify as clearly as possible the categories of information which may be sought.

(B) Duty to Meet and Confer. The parties shall meet and confer regarding the following matters during the Fed.R.Civ.P. 26(f) conference:

(i) Computer-based information (in general). Counsel shall attempt to agree on steps the parties will take to segregate and preserve computer-based information in order to avoid accusations of spoliation;

(ii) E-mail information. Counsel shall attempt to agree as to the scope of e-mail discovery and attempt to agree upon an e-mail search protocol. This should include an agreement regarding inadvertent production of privileged e-mail messages.

(iii) Deleted information. Counsel shall confer and attempt to agree whether or not restoration of deleted information may be necessary, the extent to which restoration of deleted information is needed, and who will bear the costs of restoration; and

(iv) Back-up data. Counsel shall attempt to agree whether or not back-up data may be necessary, the extent to which back-up data is needed and who will bear the cost of obtaining back-up data.

(4) Counsel may either submit a written report or report orally on their discovery plan at the initial pretrial conference.

[...]

[Adopted November 30, 1996; amended February 10, 1998; amended effective August 20, 2001.]

[...]

#### **APPENDIX D. RULE 26(f) CONFERENCE CHECKLIST**

Counsel shall be fully prepared to discuss in detail all aspects of discovery during the mandatory Rule 26(f) Conference. The subject matters to be discussed during the Rule 26(f) Conference shall include, but are not limited to, the following:

- Jurisdiction;
- Service of process;
- Initial disclosures (self-executing routine discovery) pursuant to L.R. 26.1(c);
- Formal written discovery--interrogatories, requests for production, requests for admission;
- Computer data discovery pursuant to L.R. 26.1(d)(3);
- Identity and number of potential fact depositions;
- Identity and number of potential trial depositions;
- Location of depositions, deposition schedules, deposition costs;
- Identify the number and types of expert witnesses to be called to present testimony during trial (including the identity of treating medical/psychological doctors);
- Discovery issues and potential disputes;
- Protective orders;
- Potential dispositive motions;
- Settlement possibilities and a settlement discussion schedule.

[Effective August 20, 2001.]